

REMARKS

Claims 1-7 and 9-50 are pending in the present Application. Claims 1, 3, and 20 are being amended. Support for these amendments can be found at least on page 7, lines 13-29 of the Specification as filed. No new matter is being added by way of this Amendment.

Regarding Claim Objections

Claims 1-19, 33, 35-42 were objected because of informalities. Applicants amend claims 1 and 3 to correct the informalities.

Regarding Claim Rejections – 35 USC § 103

Claim 1-7, 9-34, 36-42, 44-50 were rejected under 35 U.S.C. 103 (a) as being unpatentable over Zigmond et al. (US 6,698,020), hereinafter “Zigmond,” in view of Schlack (US 7,185,353). Applicants respectfully disagree.

Applicants’ amended claim 1 clearly recites, in part,

wherein the transmission schedule (a) specifies when the individual network device is to receive the one or more promotions,..., and (c) is sent to the individual network device in advance of the one or more promotions being received by the individual network device,

where the underlined text indicates elements added by way of amendment.

Briefly, Applicants’ claim 1 creates customized transmission schedules that specify when and how each network device associated with a promotion group is to receive one or more promotions. Specification, page 7, lines 13-29. After receiving the transmission schedule and processing each schedule entry, Applicants’ claim 1 waits for each promotion identified in the transmission schedule to be received. *Id.* As such, Applicants’ claimed transmission schedule specifies when promotions are to be received by an individual network device and is sent prior to (or in advance of) the individual network device receiving the specified promotion.

Zigmond, in stark contrast, does not and cannot teach Applicants’ transmission schedule sent in advance of the promotion(s), because Zigmond selects an ad for display from ads already

received. See e.g., Zigmond Abstract (receiving a plurality of ads from an ad source, selecting one or more received ads for display, and monitoring a program feed to display selected ads). In Zigmond, there is no need for specifying when an individual network device is to receive a promotion as recited Applicants' claim 1, much less specifying in a transmission schedule, when ads are already received and are merely awaiting display.

The differences between Applicants' claimed invention and Zigmond are further illustrated by comparing, for example, Applicants' FIG. 2 with Zigmond's FIG. 1. In Applicants' FIG. 2, a "transmission schedule" (enumerated communication 3) is separate and distinct from "promotion data (enumerated communication number 7). Zigmond's FIG. 1 simply lacks a communication corresponding to Applicants' transmission schedule.

Zigmond's FIG. 5 also does not illustrate Applicants' transmission schedule which specifies when an individual network device is to receive one or more promotions. Zigmond's FIG. 5 merely illustrates switching between already received ads (ad delivery) and received programs (programming delivery) in response to receiving triggers (trigger delivery). See Zigmond, column 10, line 16-column 17 line 9 (referring to FIG. 5, ad insertion device (80) receives a plurality of ads and caches the received ads into an ad repository (86) while a switching decision unit (88) identifies the presence of a trigger signal prompting a video switch (90) to interrupt a program feed and to display the selected ad from the ad repository (86)). Again, Zigmond has no notion of Applicants' transmission schedule which specifies when an individual network device is to receive one or more promotions. There is no need for Applicants' transmission schedule when ads are already received and are simply awaiting display.

Zigmond further describes a streaming method that provides a constant stream of ads. Zigmond, column 15, line 65-column 16, line 19. Because the constant stream of ads is constantly received, there is no need for Zigmond to specify when an individual network device is to receive a promotion.

Zigmond's FIG. 7 merely adds a satellite (134) and a satellite signal (136) as additional means for receiving programming and ads at the ad insertion device of FIG. 5. As such, FIG. 7 also fails to teach Applicants' transmission schedule which specifies when an individual network device is to receive one or more promotions. See column 18, lines 7-28 (referring to FIG. 7,

satellite received ads are stored in a device, such as an ad repository (86) of FIG. 5, for later selection and display).

Zigmond's FIG. 8 merely describes a system for retrieving information from the Internet. See Zigmond, column 19, line 11-23 (retrieving Internet information for display in response to viewer initiated request). Like the previous figures, there is no notion of Applicants' transmission schedule which specifies when the individual network device is to receive the one or more promotions.

In column 7, line 55-column 9, line 52, Zigmond merely describes: receiving ads from variety of ad sources (column 8, lines 1-28); toggling between receiving video program and receiving ads (column 8, line 29-column 9, line 8); converting ad received from ad source from non-video media to video (column 9, lines 9-20); and compiling and reporting viewer responses to received ads (column 9, lines 21-55). Zigmond does not however specify when an individual network device is to receive one or more promotions.

If Zigmond does specify anything, it is when to display a selected ad. See e.g., Zigmond column 7, lines 26-36 (ad insertion device interrupts the program feed to display selected ad) and column 7, lines 50-67 (selected ad and video program feed received together as a multiplexed video stream).

Column 11, line 30-column 12, line 43 of Zigmond merely describes receiving information regarding who to advertise to (advertisement parameters) and how to match a viewer with an advertisement parameter associated with the ad (ad selection rules). This is not the same as Applicants' transmission schedule specifying when an individual network device is to receive one or more promotions. At best, the advertisement parameters and the ad selection rules aid in targeting a promotion to a viewer. Such information would not however specify to an individual network device when to receive a promotion.

Accordingly, Applicants respectfully submit Zigmond fails to teach Applicants' "wherein the transmission schedule specifies when an individual network device is to receive one or more promotions," a feature clearly recited in Applicants' claim 1.

The Schlack reference also fails to teach Applicants' "wherein the transmission schedule specifies when an individual network device is to receive one or more promotions," because Schlack inserts ads into presentation video streams which are then received by a subscriber. See

e.g., Schlack, Abstract (scheduling ads into presentation stream groups); Summary of the Invention at column 2, lines 53-63 (inserting different ads into different presentation stream groups); and column 2, lines 19-35 (receiving presentation stream groups carrying ads). Like the Zigmond reference, after Schlack already receives promotions, there is no need to further specify when an individual network device is to receive a promotion, as contrasted with Applicants' claimed invention.

Differences between Applicants' claimed invention and Schlack are further illustrated by comparing, for example, Applicants' FIG. 2 with Schlack's FIG. 7. As pointed out previously, Applicants' transmission schedule (enumerated communication 3) is separate and distinct from program data (enumerated communication 7). As in Zigmond, Schlack also lacks a communication corresponding to Applicants' transmission schedule. See also, Schlack column 9, line 6-column 10, line 28 (referring to FIG. 7, advertisement delivery system selects ads to be inserted into presentation streams, inserts selected ads into the presentation streams, and distributes the presentation streams carrying the inserted ads to subscribers).

Accordingly, Applicants respectfully submit that Schlack, like Zigmond, fails to teach Applicants' "wherein the transmission schedule specifies when individual network device is to receive one or more promotions."

Moreover, there is no motivation for one of skill in the art to combine the Zigmond and Schlack references. Taken as a whole, there is no basis to combine the Zigmond and Schlack references because the teachings of each reference actually conflict with one another. Zigmond teaches first selecting an ad from a plurality of received ads, and then inserting the selected ad into a program feed to display the selected ad to a viewer. Schlack, on the other hand, teaches first inserting different ads into a different presentation streams and then selecting which of the different program streams carrying the different ads is most appropriate for a viewer. Because the ordering of selecting and inserting as taught by Zigmond and Schlack clearly differ from one another, there can be no basis for combining the teachings.

Accordingly, Applicants respectfully submit Zigmond and Schlack, either alone or in combination, neither teaches nor makes obvious Applicants' claim 1 ("wherein the transmission schedule specifies when the individual network device is to receive the one or more

promotions”). Applicants respectfully submit Applicants’ claim 1 is patentable over Zigmond in view of Schlack under 35 U.S.C §103(a) and should be allowed.

Independent claim 20 recites similar elements as claim 1, and as such, should be allowed for similar reasons.

Because claims 2-7, 8-19, 33, 36, and 38-41 depend from claim 1, and claims 21-32, 34, 37, 44-50 depend on claim 20, these claims should be allowed for the same reasons. Withdrawal of the § 103 rejection of these claims is also respectfully requested.

Claims 35 and 43 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over Zigmond et al. (US 6,698,020), hereinafter “Zigmond,” in view of Schlack (US 7,185,353), and in further view of Alexander et al. (US 6,177,931), hereinafter “Alexander.”

Applicants respectfully submit that Zigmond, Schlack, and Alexander, taken either singly or in combination do not teach, suggest, or otherwise make obvious Applicants’ “wherein the transmission schedule specifies when the individual network device is to receive the one or more promotions.” This feature is clearly recited in Applicants’ claims 1 and 20 from which claims 43 and 35 depend, respectively.

As reasoned above, Zigmond and Schlack, either singly or in combination, fail to disclose Applicants’ recited transmission schedule. Now considering Alexander, at column 32, lines 24-54, Alexander discloses a technique for customizing the presentation of advertising using viewer profile information. See also Alexander, column 32, lines 22-23. The technique involves an electronic program guide (EPG), a profile program and the viewer profile information. See Alexander, column 32, lines 24-34. The viewer profile information contains data that is collected concerning and surrounding a viewer’s interaction with a television. See Alexander, column 29, lines 14-20. The EPG and profile program use the viewer profile information to tailor the presentation and scheduling of advertisements to a viewer. See Alexander, column 32, lines 24-27.

Specifically, Alexander notes the viewer profile information may be used to customize an overlay message that is displayed on a particular advertisement. More particularly, Alexander notes that geographic information stored in the profile (e.g., a zip code) may be used to inform the EPG of a viewer’s geographical location. The EPG may then select an overlay message

based on the geographical information. The selected overlay message is displayed to the viewer when the advertisement is displayed. *See* Alexander, column 32, lines 39-54.

Alexander would not need Applicants' transmission schedule which specifies when an individual network device is to receive one or more promotion because Alexander determines what advertisements to display based on viewer profile information. The profile information is merely viewer profile data that is fed into the EPG or the profile program which has the built-in intelligence to examine the profile data and select what advertisements to display. Thus, including information about when a promotion is to be received in the viewer profile data would not help Alexander because the decision as to what advertisement to display is made by the EPG and/or the profile program and not in the data that is fed to the EPG and/or profile program.

Thus, the technique described by Alexander to determine how an EPG is to be presented and/or what advertisements are to be displayed is not the same as Applicants' "wherein the transmission schedule specifies when the individual network device is to receive the one or more promotions."

Accordingly, the rejection of claims 35 and 43 under 35 U.S.C. § 103 as being unpatentable over Zigmond in view of Schlack, and in further view of Alexander should be reversed.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims (claims 1-7 and 9-50) are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

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